

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DOWNEY v. COMMISSIONER OF SOCIAL
SECURITY

7:08-CV-1087 (LEK/GJD)

CHRISTINE A. SCOFIELD, ESQ., for Plaintiff

ORDER


Plaintiff filed the complaint in the above Social Security action on October 10, 2008. (Dkt. No. 1). Upon review, it appeared that the case had not been properly served on defendant. Upon further review, it was determined that on the same day, plaintiff had filed another action against the Commissioner of Social Security. 7:08-CV-1086 (TJM/GJD). The two actions are identical. The court notes that 7:08-CV-1086 has been served and has been consolidated with 7:08-CV-1010. There is currently a motion to dismiss for lack of subject matter jurisdiction in the consolidated action. (Dkt. No. 8 in 7:08-CV-1010).

It appears that 7:08-CV-1087 was filed in error and is duplicative of 7:08-CV-1086. This was confirmed by plaintiff's counsel on March 13, 2008. Because the above action was filed in error, and the identical action is proceeding under another civil action number, this court will order this action *closed* with the plaintiff's consent.

WHEREFORE, based on the above, it is

ORDERED, that this action is hereby **CLOSED** as filed in error.

Dated: March 16, 2009



Hon. Gustave J. DiBianco
U.S. Magistrate Judge